

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

JOHN OHLINGER,

Petitioner,

ORDER

v.

11-cv-799-wmc

MICHAEL DITTMAN, Warden,  
Columbia Correctional Institution,

Respondent.<sup>1</sup>

---

Petitioner John Ohlinger has filed a petition for a federal writ of habeas corpus under 28 U.S.C. § 2254 and the respondent has filed an answer. Citing his recent placement in disciplinary segregation, petitioner now requests appointment of counsel and a 60-day extension of time in which to file a brief in support of his petition. (Dkt. # 49).

Unlike indigent criminal defendants, civil litigants have no automatic right to court-appointed counsel. *See Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997); *see also Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) (“Our cases establish that the right to appointed counsel extends to the first appeal of right, and no further.”). A federal habeas corpus court may appoint counsel for a financially eligible petitioner where “the interests of justice so require.” 18 U.S.C. § 3006A(g); *Johnson v. Chandler*, 487 F.3d 1037, 1038 (7th Cir. 2007). Appointment of counsel in this context is discretionary “unless denial would result in fundamental unfairness impinging on due process rights.” *Wilson v. Duckworth*, 716 F.2d 415, 418 (7th Cir. 1983) (quoting *LaClair v. United States*, 374 F.2d

---

<sup>1</sup> Petitioner has advised the court that Michael Dittman has replaced Michael Meisner as warden of the Columbia Correctional Institution. Accordingly, the court substitutes Dittman as the proper respondent pursuant to Fed. R. Civ. P. 25(d).

486, 489 (7th Cir. 1967)); *Winsett v. Washington*, 130 F.3d 269, 280 (7th Cir. 2007).

Here, petitioner paid the filing fee and does not proceed under the *in forma pauperis* statute. *See* 28 U.S.C. § 1915(a). Assuming that he qualifies as indigent, petitioner does not show that he meets the criteria for counsel found in the Rules Governing Section 2254 Cases in the United States District Courts. *See* Rules 6(a), 8(c)(citing 18 U.S.C. § 3006A), or that the interests of justice require the appointment of counsel at this time. In that respect, petitioner does not demonstrate that discovery is needed or that this case cannot be resolved on the available state court record such that an evidentiary hearing may be necessary. The court notes, moreover, that petitioner has already filed a brief in support of his petition. Accordingly, the motion for appointment of counsel will be denied. The court will, however, grant petitioner an extension of time to submit additional briefing if he wishes to do so.

#### ORDER

IT IS ORDERED that the petitioner's motion for appointment of counsel, dkt. # 49, is DENIED. Petitioner's request for an extension of time to submit additional briefing is GRANTED. Petitioner shall file any additional briefing in support of his petition no later than 60 days from the date of this order.

Entered this 15th day of July, 2014.

BY THE COURT:

/s/

---

WILLIAM M. CONLEY  
District Judge